

**WHEN RECORDED RETURN TO:**

Bradley W. Andersen

Schwabe, Williamson & Wyatt

700 Washington St., Suite 701

Vancouver, WA 98660

**DOCUMENT TITLE(S)**

Subdivision Transfer Agreement

**REFERENCE NUMBER(S)** of Documents assigned or released:

☐ Additional numbers on page \_\_\_\_ of document.

**GRANTOR(S):**

Chinidere, LLC

☐ Additional names on page \_\_\_\_ of document.

**GRANTEE(S):**

Regal- A Land Acquisition & Development LLC

☐ Additional names on page \_\_\_\_ of document.

**LEGAL DESCRIPTION** (Abbreviated: i.e. Lot, Block, Plat or Section, Township, Range, Quarter):

T3N R75E Sect. 36 SW 1/4


☒ Complete legal on page \_\_\_\_ of document. See attached exhibits

**TAX PARCEL NUMBER(S):**

03753630050000

☐ Additional parcel numbers on page \_\_\_\_ of document.

The Auditor/Recorder will rely on the information provided on this form. The staff will not read the document to verify the accuracy or completeness of the indexing information.

 May 27, 2008

## SUBDIVISION TRANSFER AGREEMENT

THIS SUBDIVISION TRANSFER AGREEMENT ("Subdivision Transfer Agreement") is made as of this 30<sup>th</sup> day of May, 2008, by and between **CHINIDERE, LLC** ("Seller" or "**Chinidere**"), and **REGAL- A LAND ACQUISITION AND DEVELOPMENT LLC** ("**Purchaser**" or "**Regal**"). This Agreement shall be effective upon its mutual execution and delivery by Chinidere and Regal ("**Effective Date**"). Chinidere or Regal shall be referred to herein from time to time as a "**Party**" and together as the "**Parties**".

### RECITALS

- A. Whereas on or about September 21, 2006, the City of Stevenson, Washington ("City") granted Preliminary Plat approval to Chinidere, a copy of which is attached to and incorporated herein as Exhibit "A", to divide 25.5 acres of real property into 83 lots for mixed single family detached and multi-family residential home sites, which property is more particularly described in the attached Exhibit "B", and described herein as the "Subdivision" or "Subdivision Parcel." The City imposed various requirements and conditions for the Subdivision regarding water, trails, open spaces, sewer systems, streets, street lights, engineering, storm drainage, and other etc. Thereafter, this matter came before the Superior Court of the State of Washington in Skamania County in Case No. 06 2 00032 5, in which the Court remanded the matter back to City Council to include stipulated changes to the Preliminary Plat (collectively the "Development Requirements");
- B. Whereas, Chinidere and Regal entered into a Purchase and Sale Agreement ("PSA") dated April 3, 2008 for the sale of the Subdivision, except for those portions of the Subdivision located within Phase IV, and Lots 39, 40, and 41 of Phase II;
- C. Whereas, on or about April 30, 2008, Chinidere filed a short plat application ("Feliz Short Plat") to divide the Subdivision into two separate parcels for the purpose of implementing the PSA so that Phases I through III shall become Lot 1 and Phase IV will become Lot 2. The property that will become Lot 2 of the Short Plat/Phase IV of the Subdivision is more particularly described in Exhibit "C" hereto, which is incorporated herein by reference;
- D. Whereas, to avoid a delay in Closing the PSA, the Parties executed a First Addendum to the Purchase and Sale Agreement on May 19, 2008 to provide that Seller will convey to Regal the entire Subdivision Parcel and that Regal will, within seven (7) days of the City's approval of the Feliz Short-Plat, convey back to the Seller Lot 2 of the Feliz Short Plat, also known as Phase IV;

- E. Whereas, the Parties executed a Second Addendum requiring Closing to occur no later than May 30, 2008;
- F. Whereas, the Parties executed a Third Addendum requiring Chinidere to convey to Regal at closing only Lot 1 of the Feliz Short Plat;
- G. Whereas, the City has required that the Parties submit a Subdivision Transfer Agreement to confirm that, despite the division of Phase IV from Phases I through III, that the Development Requirements will be satisfied for the entire Subdivision and to give the City the power to enforce this Agreement.

NOW, THEREFORE, in consideration of the representations and covenants of the parties as set forth herein, the parties agree to amend the terms of the Agreement as follows:

1. **Development of Phases I Through III.** Regal shall, at its own expense, be responsible for satisfying all Development Requirements for Phases I through III of the Subdivision (which will become Lot 1 of the Feliz Short Plat), which shall include the obligation to obtain final plat approval for Phases I through III of the Subdivision.
  - 1.1. **Regal's Obligation to "Stub" Phase IV and Loop Water Line.** Simultaneously with the development of Phases I through III, Regal shall, at its own cost and expense and in accordance with the Engineering Plans, "stub" the utilities and road for Phase IV (which will become Lot 2 of the Feliz Short Plat) by installing the utilities (including, but not limited to, water, sewer, electrical, and cable) up to the boundary of Phase IV and shall construct a roadway (Brady Road) that crosses the spring to the edge of Phase IV. Regal shall also be responsible to complete the extension of the water line across Phase IV as a condition to final approval of Phase I to serve the lots in Phases I through III.
2. **Development of Phase IV.** Chinidere shall be responsible for satisfying all Development Requirements for Phase IV (Lot 2 of the Feliz Short Plat). Chinidere understands that it may not commence development of the lots within Phase IV until 80% of all lots in Phase III have been conveyed notwithstanding Chinidere's pending short plat. Chinidere shall be obligated to obtain final plat approval for Phase IV.
3. **Access Easements.** As provided in the PSA, the parties have agreed to grant reciprocal easements over their respective properties to provide each other and the City reasonable access to utilities and for ingress and egress to each of the Phases in accordance with the Preliminary Plat Approval.
4. **Homeowners Association.** Regal and Chinidere agree that only one homeowners association will be formed to govern the Subdivision.
5. **Binding Effect and Third-Party Enforcement Rights.** This Subdivision Transfer Agreement shall be binding upon and inure to the benefit of the executing parties and their

respective successors, assigns, heirs, executors, and administrators. The parties further intend for this Agreement to be for the City's benefit and hereby agree that the City shall have a right to enforce its terms to the extent that they pertain to the Development Requirements.

6. **Relationship of Parties.** Nothing contained in this Agreement shall be deemed or construed, either by the parties hereto or by any third party, to create the relationship of principal and agent or create any partnership, joint venture, or other association between Regal and Chinidere.
7. **Counterparts.** This Addendum may be executed in any number of counterparts and all counterparts shall be deemed to constitute a single agreement. The execution and delivery of one counterpart by either party shall have the same force and effect as if that party had signed all other counterparts. Delivery by facsimile of an executed counterpart shall have the same effect as physical delivery of an original.
8. **Merger.** There are no other verbal or other agreements which modify or affect this Subdivision Transfer Agreement. This Subdivision Transfer Agreement supersedes any prior understandings and agreements between the parties respecting the subject matter hereof. Time is of the essence of the Agreement. All subsequent modifications or waivers of any condition of the Agreement and/or this Addendum shall be in writing and signed by the appropriate parties. The Parties expressly incorporate the foregoing recitals into this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first written above.

**PURCHASER:**

REGAL- A LAND ACQUISITION AND  
DEVELOPMENT LLC

By: [Signature]

Print Name: Rich LeDort

Its: Member

Dated: 5/30/08

By: [Signature]

Print Name: Craig Allen

Its: member

Dated: 5/30/08

**SELLER:**

CHINIDERE, LLC

By: [Signature]

John Feliz, Managing Member

Dated: May 27, 2008

Address for Notices:

6906 NE 139th Ave

Kenilworth WA 98026

Address for Notices:

14435 NE Valley View LaneBattle Ground, WA 98604

[Notary Acknowledgments to Follow]

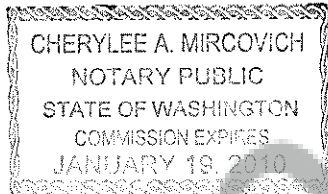
ACKNOWLEDGMENT

STATE OF WASHINGTON )

:SS

County of Clark )

I certify that I know or have satisfactory evidence that Rick Leavitt is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Member of REGAL- A LAND ACQUISITION & DEVELOPMENT LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 30<sup>th</sup> day of May, 2008.

Cherylee A Mircovich  
 Notary Public  
 Printed Name: Cherylee A Mircovich  
 Residing at: Vancouver  
 My Appointment Expires: 1/19/2010

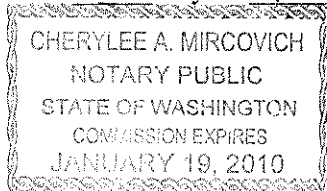
ACKNOWLEDGMENT

STATE OF WASHINGTON )

:SS

County of Clark )

I certify that I know or have satisfactory evidence that Gary Albers is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Member of REGAL- A LAND ACQUISITION & DEVELOPMENT to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 30<sup>th</sup> day of May, 2008.

Cherylee A Mircovich  
 Notary Public  
 Printed Name: Cherylee A Mircovich  
 Residing at: Vancouver

SUBDIVISION TRANSFER AGREEMENT - 4

PDX/110786/153658/MB1/2598864.3



**EXHIBIT "A"**

**PRELIMINARY PLAT APPROVAL AS ADOPTED BY STEVENSON CITY COUNCIL**

Unofficial  
Copy



**BEFORE THE CITY OF STEVENSON, WASHINGTON**

Regarding a request by John Feliz, applicant, for a Preliminary Plat to divide 25.4 acres into 83 lots for Mixed single family detached and multi-family residential In the R-1 and R-3 zones in the newly-annexed area on the East side of Stevenson, South of the Skaalheim tracts and North of SR-14.

) AMENDED  
 ) FINAL PLANNING  
 ) COMMISSION  
 ) RECOMMENDATIONS  
 ) AS ADOPTED BY  
 ) CITY COUNCIL 9/21/06  
 Per the Superior Court's  
 Order of Remand

**A. SUMMARY**

1. John Feliz (the "applicant") requests approval of a preliminary plat to divide 25.4 acres of property partially zoned R-1 and partially zoned R-3 into 83 home sites consisting of 83 residential structures, of which no more than four structures shall be multi-family and the remaining structures shall be single family detached homes. The applicant also proposes to create two tracts designated as open space or habitat buffers and one space designated as a park, totaling 3.65 acres. The two tracts designated as open space serve to protect and preserve stream corridors and wildlife habitat on three streams that cross the property. The original plat application was changed to address staff concerns and the amended preliminary plat application was filed in June, 2005.
2. The applicant will dedicate right of way for and construct several new public streets within the site. The applicant will extend Pine Street, Tari Lane, Fir Street and Spruce Street on the North end of the property, and on the South end of the property make improvements to Lutheran Church Road and its connection to SR-14. The applicant submitted a Traffic Impact Analysis dated March 9, 2005, and a later addendum. The applicant requests the following variances:
  - i. To reduce the right-of-way width requirement (from 60 feet to 50 feet)
  - ii. To reduce the 36-foot paved road surface requirement to a 32-foot paved surface;
  - iii. To provided sidewalks on one side of the paved surface only (the City road standards require sidewalks on both sides);
  - iv. To exceed the 15% maximum grade for a section of Fir Street, up to a 16.67% grade;
  - v. To exceed the maximum 15% grade for the proposed pedestrian paths;
  - vi. To eliminate the requirement of connectivity between the new road system and the existing city streets adjoining the subdivision.



3. The applicant will collect storm water from impervious areas and direct it into a pipe collection system, directing all stormwater to a stormwater treatment area, which discharges to Vallett Creek, a Type 3 stream, and then to the Columbia River. See Preliminary Stormwater Plan. No changes are proposed for the drainage of the existing intermittent stream.
4. The applicant has provided a Geotechnical Engineering Report showing cross sections of the site and making recommendations to direct groundwater from the site. The study concludes that residential development is technically feasible on the site with detailed engineering considerations and construction supervision.
5. The applicant provided an Oregon White Oak Habitat Management Plan to address the project's impact on flora and fauna found on the site and to address concerns from the Washington Department of Fish and Wildlife.
6. Skamania County PUD will provide electrical power and the City of Stevenson will provide domestic water and sanitary sewer to each proposed lot.
7. The City of Stevenson issued a Mitigated Determination of Non-Significance (MDNS) for the subdivision pursuant to the State Environmental Policy Act ("SEPA"). The MDNS contained the following mitigation measures:
  1. As part of Phase 1, off-site improvements to Lutheran Church Road and the State Route 14 approach shall be constructed to provide more adequate vehicular and pedestrian safety.
  2. Development activities such as site preparation, grading and the construction of roads and utilities, construction, except for necessary utility line and emergency access road corridors on other parts of the site.
  3. In conjunction with the phased development, off site street improvements to portions of Pine Street, Tari Lane, Fir Street and Spruce Street shall be constructed by the applicant to provide the needed street linkages to the project site.
  4. To address the need of adequate water supplies and sewer services to the project site, the applicant shall provide the water main extension along Second Street Lutheran Church Road, an upgrade at the Kanaka Creek pump station and shall participate with the City on the upgrade of the water main along Pine Street.
  5. Project plans shall include stormwater drainage facilities, site grading plans and erosion control measures using best management practices, acceptable to the City Engineer.
  6. Prior to site construction activities for Phases 2, 3 and 4, a wildlife/bird breeding survey shall be conducted, as recommended by the Washington Department of Fish and Wildlife, to assess priority habitat and species. Identification of priority habitat or species may require site mitigation.

7. If cultural or archeological resources are discovered on the site during construction activity, the Office of Archeology and Historic Preservation in Olympia and the City of Stevenson shall be notified immediately.

The City Planning Director provided notices to interested agencies as required by Ch. WAC 197-11 and received comments. As a result of the comments, the City Planning Director has amended mitigation measure numbers 4, 6 and 7 to the following

4. To address the need of adequate water supplies and sewer services to the project site, the applicant shall provide the water main extension along Second Street Lutheran Church Road, an upgrade at the Kanaka Creek pump station if other measures to control inflow/infiltration on-site are not adequate, and shall participate with the City on the upgrade of the water main along Pine Street.

6. Prior to site construction activities for Phases 2, 3 and 4, a wildlife/bird breeding survey shall be conducted, as recommended by the Washington Department of Fish and Wildlife, to assess priority habitat and species, such as the Western Gray Squirrel, and may require a comprehensive wildlife plan and amendments to the project plans.

7. Prior to site disturbing activities, an archeological/cultural resources survey of the site shall be conducted by a qualified professional and shall be made available to appropriate agencies for review. If cultural or archeological resources are discovered on the site during construction activity, the Office of Archeology and Historic Preservation in Olympia and the City of Stevenson shall be notified immediately.

8. It is understood that the applicant has applied for preliminary plat approval of the entire four-phase proposal. Preliminary plat approval would remain valid for five years, subject to completion of improvements and submission of a final plat.
9. Based on the finding provided or incorporated herein, the Planning Commission (hereinafter "PC" or "Commission")) recommended approval of the subdivision subject to the conditions at the conclusion of this final order.
10. On February 16, 2006 the City Council summarily adopted the PC Recommendations.
11. The Applicant, Columbia Riverkeepers (Riverkeepers), and a neighbor by the name of Avis Dunas (Dunas) appealed the City's Approval to the Skamania County Superior Court. The City was named a respondent in these appeals. The administrative record was presented to the court. The parties submitted briefs on the factual and legal issues. Upon review of each side's arguments, the Applicant, Riverkeepers and Dunas reached an agreement to address what they perceived to be defects in the City's Approval. On September 14, 2006, the City Council

authorized the City Attorney to sign a Stipulated Motion and Order of Remand to resolve the parties' respective appeals. On September 15, 2006 the Court entered a Stipulated Order of Remand to require the City to make changes to its conditions of Approval. A copy of the court's Order of Remand is attached to herein as Exhibit "A". No one appealed the Court's Order of Remand.

12. On September 21, 2006, the City Council conducted a public hearing where it considered the court's Order and approved the adoption of these Amended Final Planning Commission Recommendations as contained herein.

## **B. HEARING AND RECORD HIGHLIGHTS**

1. The Planning Commission conducted a public hearing, continued with the consent of the applicant on three meeting dates: August 8, 2005, August 16, 2005 and January 17, 2006. The testimony and evidence, including an audiotape of the public hearing and the casefile maintained by the City, are included herein as exhibits, and they are filed at City Hall. Appendix 1 contains a summary of testimony and evidence offered at the hearing. As set forth above, the City Council also held a public hearing on September 21, 2006 to consider the court's Order of Remand and the previously established record.

## **C. DISCUSSION**

1. City staff and consultants recommended that the Commission approve the preliminary plat, based on the findings set forth in the Engineer's report and Staff report and subject to conditions of approval in the Engineer's and Staff Reports, as modified at the hearing. The applicant largely accepted those findings and conditions as modified, with exceptions discussed below.

2. The Commission finds that the Staff Report accurately identifies the applicable approval criteria for the preliminary plat and contains affirmative findings that the proposed preliminary plat does or can comply with the applicable standards of the SMC (including cited plans and codes) and the Revised Code of Washington, provided the applicant complies with recommended conditions of approval as amended herein. The Commission adopts the affirmative findings in the Staff Report as its own, except to the extent that those findings are inconsistent with the findings in this Final Order.

3. There is a dispute about whether the proposed variance requests should be allowed. These will be treated in order:

- i. To reduce the right-of-way width requirement (from 60 feet to 50 feet)
  1. Choice of standard. The threshold question in this case is what standard should be applied to the variance request. Mr. Keith Hirokawa argues on behalf of neighbor Avis

Dunas and Columbia Riverkeeper that the proponent must in each instance meet the multi-part test set forth in SMC 16.38.010. That section addresses variances pertaining to subdivision requirement. However, that section specifically pertains to standards set forth "within this article" and Article II of SMC does not define road width. That requirement is mandated by the City road standards. The PC finds that the standard to be applied in the case of a request for a variance from the road standards appears in the City Road Standards. That is within the sound discretion of the City Engineer, who has concluded that a 50-foot right-of-way is adequate under the conditions existing on this property.

2. PC finds that the City Engineer has considered the evidence introduced to the City, including reports submitted to the PC as well as the topography and soil composition of the site, and has concluded that a 50-foot right of way will be adequate for the project.
  3. The PC adopts the City Engineer's recommendation relating to the 50-foot right-of-way request, with the **additional condition** that the City Engineer and Public Works director agree that this right-of-way is adequate considering the decision below concerning the sidewalk variance request.
- ii. To reduce the 36-foot paved road surface requirement to a 32-foot paved surface, consisting of two twelve-foot driving lanes and a single eight-foot parking lane;
1. Again, the road standards should be applied in this case, and the PC again considers the testimony of the neighbors opposing the reduction of the road width. The discussion focused on the relative dangers to vehicles and pedestrians negotiating a narrower roadway, contrasted by the argument that wider roads lead to faster traffic, more surface area for stormwater and less of a residential feeling.
  2. The PC finds that the narrower roadway will be adequate considering the increased slope cuts that would be required for the larger roadway, the increased stormwater runoff that would result from the larger impermeable surface area and the benefits of slower traffic within the subdivision. The PC again adopts the City Engineer's findings and recommendations relating to this variance request.
- iii. To provide sidewalks on one side of the paved surface only (the City road standards require sidewalks on both sides);

1. There was considerable testimony relating to the request for a variance from the standards requiring sidewalks on both sides of the travel lanes. The City Engineer generally supported the variance request, but conceded during deliberations that the PC was more familiar with local standards and conditions and a departure from the Engineer's recommendations might be appropriate if the PC considers the variance to be inappropriate for this subdivision.
  2. The proponent argued that there is adequate pedestrian circulation around the subdivision with sidewalks on only one side of the roadway, especially considering the proposed trail network. Several citizens argued that the development is intended for moderately-sized and priced homes, and that it is likely to house younger families with school-aged children. They expressed concern that children living on lots without contiguous sidewalks would have to cross the street to play safely on a sidewalk, and that would place younger children in peril, or require higher parent supervision.
  3. The developer conceded the trail system is not being built to the standards of sidewalks insofar as it will exceed grade requirements in some areas, have an unimproved gravel surface, and no lighting or other security measures. The PC finds the trail system is not equivalent to sidewalks and the request for a variance to this standard should be denied. Again, to the extent this decision impacts the right-of-way and/or road width variance requests, the proponent will have to meet the condition that the right-of-way must be approved as adequate by both the City Engineer and Public Works director.
- iv. To exceed the 15% maximum grade for a section of Fir Street, up to a 16.67% grade;
1. The City Engineer's report addressed the request for a variance from the grade requirements, and concluded the request could be allowed, provided the developer is willing to work with the City Engineer and Public Works director to minimize that grade as the site is developed.
  2. The PC finds the increase grade will not adversely the safety of the traffic circulation in the area, provided the developer provide adequate connectivity as set forth below so that vehicles may use alternate routes during snow and ice events. The PC adopts the City Engineer's recommendation to allow this variance.



- v. To exceed the maximum 15% grade for the proposed pedestrian paths;
  - 1. The City Engineer concludes in his report that this variance may be allowed without making the trail system less safe. Considering the previous ruling that sidewalks must be built on both sides of the roadway, and thus that the trail system supplements rather than replaces the sidewalk system, this variance request is allowed. The PC adopts the City Engineer's findings and recommendations in this regard.
- vi. To eliminate the requirement of connectivity between the new road system and the existing city streets;
  - 1. Standard of review. There was considerable testimony dedicated to this variance request. In this case, this road standard is part of the subdivision code, SMC 16.30.120, particularly subsection (A) dealing with ingress and egress points, subsection (B) which specifically requires "continuation of major roads which serve property contiguous to the subdivision", subsection (E) which mandates "ready access for fire and other emergency vehicles and equipment, and routes of escape for inhabitants" and subsection (F) that requires the road pattern to "conform to the general circulation of the area and provide for future roads and connections." Thus, the applicant would have to meet the variance standards set forth in SMC 16.38.010, including the showing of undue hardship and deprivation of property rights enjoyed by other properties in the area, that granting the variance will not be detrimental to the public welfare, and that allowing the variance will not nullify the intent and purpose of the subdivision regulations.
  - 2. First, the proponent expressed concern that drivers heading down Loop Road, or between SR-14 and the high school, will choose a "shortcut" through the development, thereby increasing traffic both in the development and in the Skaalheim neighborhood. To address the recognized need to emergency access to the neighborhood, the proponent shows a narrow "emergency access only" roadway connecting the upper and lower areas, and bollards to prevent unauthorized use of the road.
  - 3. The City Fire Chief opposes the use of bollards and the City Engineer concurs that bollards will slow emergency response time. The City Engineer opposes the applicant's proposal relating to connectivity. He observed that connectivity between all city roads provides good vehicle



circulation throughout the City and gives emergency vehicles better access in all weather conditions. The City Engineer indicated he would not oppose speed bumps to reduce traffic speed and discourage "cutting through" through the development.

4. The applicant based its reasons for limiting access to the subdivision on safety, but made no real showing of hardship to the applicant based on special circumstances relating to the parcel.
5. The PC considered the proponent's testimony regarding circulation and safety, but finds that the applicant has failed to meet the hardship and comparative privilege requirements of SMC 16.38.010(a), and allowing the variance would frustrate the purpose of the road standards set forth in SMC 16.30.120. City Engineer's recommendations will best advance the access to the site for emergency personnel and do not wish to set a precedent of allowing a subdivision in the City become an insulated "island" from other neighborhoods. The PC adopts the City Engineer's findings and conclusions in denying the connectivity variance request.

vii. Lutheran Church Road radius

1. To improve the safety of the existing 35-foot radius curve on Lutheran Church Road, the City Engineer is recommending as a condition that a minimum centerline curve radius of 100 feet be provided by realigning the road.
2. The PC adopts the City Engineer's findings and conclusions regarding the curve radius of Lutheran Church Road.

4. Zoning criteria.

a. The ordinance<sup>1</sup> annexing this parcel adopted R-1 zone for the northernly section of the parcel and R-3 for the southernly section. The exact delineation has not been established between the two zones, and City Council approval of the exact demarcation will be a condition of preliminary plat approval. The applicant is contemplating not more than four multi-family structures on the southern (phases 1 & 2) section of the development. Single family residential is a permitted use in either zone, and multi-family is permitted in R-3 zone.

b. The preliminary plan shows an approximately ½ acre parcel designated as a "park". Mr. Hirokawa correctly observed that both R-1 and R-3 zones designate a "park" as a condition use, and that no conditional use application was

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<sup>1</sup> Ordinance 985&986.

submitted for this park. The applicant argues that the term "park" in the zoning code is intended to mean "public park" and this "park" is not intended to be dedicated to the City – it is reserved for the use of the subdivision residents only. The PC observes that "park" is not defined in 16.02.010 or in Ch. 16.16. While the PC is given discretion in interpreting its own ordinances<sup>2</sup>, it can not be arbitrary in its interpretation. The dictionary meaning of the word "park" is "an area of land, usually in a largely natural state, for the enjoyment of the public, having facilities for rest and recreation, often owned, set apart, and managed by a city, state or nation"<sup>3</sup>.

This contemplates both that the area will be open to the public and that it is typically owned by the municipality. This area does not include either of these factors, and thus is not a "park" in that sense but something more akin to the "greenspace" areas designated in other parts of the development. Absent a definition of "park" in the ordinance that includes privately owned and operated areas, the PC is inclined to disregard this area's designation as a "park" and consider it to be an open space that does not require a conditional use application. If at any time the developer or the property owners wish to dedicate this site to the public for public use and maintenance and the City agrees to accept the dedication, a conditional use application will be necessary.

Given the developer's designation of this property as a "park" we will require as a condition the redesignation of this property as an allowed use, provided the use does not trigger either additional SEPA or PC requirements. If at any time the applicant wishes to redesignate the area as a "park" it will have to apply for a conditional use permit.

In order to allow the County Assessor to properly provide for an assessment of the greenspace and open spaces, the PC imposes a condition to designate all such spaces with Lot numbers.

c. Mr. Hirokawa mentions the R-3 zoning overlay that appears in Ordinance 986 must be addressed for this site. The R-3 design overlay that is contained in the current City Zoning Ordinance applies only to the area around Rock Creek Drive, as denoted on the Official Zoning Map. For the subdivision site, an R-3 overlay was considered for the subject area, but it was never completed or adopted. Thus, the overlay does not apply to the subject parcel.

Based on the foregoing, the PC adopts the Staff report and recommendations and finds the application meets the zoning designation for this parcel with the conditions set forth.

##### 5. PC Review Standards.

<sup>2</sup> Courts generally accord deference to an agency's interpretation of an ambiguous ordinance. Citizens to Preserve Pioneer Park LLC v. City of Mercer Island, 106 Wash.App. 461, 475, 24 P.3d 1079, 1087 (2001).

<sup>3</sup> *Webster's Encyclopedic Unabridged Dictionary of the English Language*, Thunder Bay Press, 2001.

The PC must review the subdivision application according to the review standards set forth in SMC 16.02.180-230

i. Chapter 16.30 Design Standards

1. 16.30.010 General Standards. Except as specifically addressed in the variance discussion, above, the PC adopts the City Engineer's findings and recommendations relating to the roads, sidewalks, drains, fire protection systems, storm sewers and other systems.
2. 16.30.020. Protective improvements required when – Denotation on final plat required. Mr. Hirokawa states that due to the steep topography the area is vulnerable to slides and is therefore "hazardous to the safety or general welfare of persons or property in or near a proposed subdivision" and can not be developed. However, the PC has reviewed the applicant's Geotechnical Engineering Report and its conclusion that the site may be developed safely under the conditions stated in that report and heard testimony from the consultant geotechnical engineer at the public hearings of August 8 and 16, 2005. Absent any expert testimony on the record to the contrary, the PC concurs with the City Engineer's findings and conclusions that the site is not inherently hazardous for development.
3. 16.30.030 Lot size and dimensions. The PC adopts the Planning Director's findings and conclusions that the applicant's proposed lot size and dimensions meet the City's applicable standards.
4. 16.30.040 Blocks. The PC adopts the Planning Director's findings and conclusions that the applicant's proposed block design meets the City's applicable standards.
5. 16.30.050 Reverse frontage lots. The PC adopts the Planning Director's findings and conclusions that the applicant's lot configuration design meets the City's reverse frontage standards.
6. 16.30.060 Lot access. The PC adopts the City Engineer and Planning Director's findings and conclusions that the applicant's proposed lot layout provides adequate public road access to each lot, except as modified by the variance decisions discussed above.
7. 16.30.070 Utility Easement. The PC finds that the preliminary plat map provides for adequate utility easements, provided the City Engineer and Public Works Director do not require more than the 50' right-of-way allowed conditionally above.

8. 16.30.080. Underground utility installations. The PC finds that the project intends to underground utilities and that this requirement is therefore met. The PC finds that the Skamania County PUD has reviewed the plans and agreed to the underground re-routing of its overhead transmission lines, at the applicant's expense.
9. 16.30.090 Drainage and storm sewer easements. The applicant has submitted a Preliminary Stormwater Plan. That plan shows a drain collection system that directs the stormwater to a central bioswale treatment facility on-site next to Lutheran Church Road. From there, the treated water will flow into Vallett Creek and then into the Columbia River.
  - a. Mr. Hirokawa cautions that the area designated for the bioswale is a wetland, and the applicant must first apply for a further critical areas permit pursuant to SMC Ch. 18.12. However, as will be discussed in the critical areas section, below, the area is not mapped as a wetland area and the site assessment of the property failed to identify wetlands as contemplated under this chapter. In addition, the bioswale would not intrude on the required 50-foot buffer area for Vallett Creek, a type 3 stream.
  - b. The PC finds that the Preliminary Stormwater Plan adequately addresses the need to collect and treat stormwater from the site, conditioned upon the City Engineer's review and approval of a final stormwater plan. The PC adopts the City Engineer's findings and recommendations relating to stormwater.
  - c. The PC finds the Preliminary Stormwater Plan shows a general location of stormwater facilities and a **condition** will be imposed requiring adequate easements for the improvement and maintenance of those facilities.
10. 16.30.100 Water supply and sanitary sewer systems.
  - a. Water supply. The City Engineer has considered the applicant's preliminary water system engineering and concludes that both the City water system and the on-site water system will adequately supply the proposed residences, with the conditions imposed.
  - b. Sewer supply. The City Engineer has considered the applicant's preliminary sewer system engineering and concludes that both the City sewer

system and the on-site sewer system will adequately supply the proposed residences, with the conditions imposed.

11. 16.30.120 Roads.

a. Lutheran Church Road approach.

- i. Considerable testimony related to the Lutheran Church Road approach. While this is also relevant to the SEPA application, it is also part of the PC's analysis by virtue of SMC 16.30.120. Subsection (A) requires a subdivision to provide ingress and egress to a subdivision at not less than two points. Provided the connectivity requirement is met, this subdivision will be accessed by more than two points, even without considering Lutheran Church Road. However, subsection (B) requires the subdivision to provide for the continuation of major roads within a subdivision. Also, subsection (E) requires road networks within the subdivision to have "ready access" for fire and emergency personnel, and subsection (F) requires the roads to "conform to the general circulation of the area".
- ii. The Washington Department of Transportation (WSDOT) commented on the application, and provided specific conditions, including improvements to the intersection and increasing the road width from approximately 20' to 26' within WSDOT right-of-way from SR-14. The proponent's plan shows the road width decreasing from 26' to approximately 20' after the WSDOT-required widening. The applicant's attorney, Brad Andersen, explained the road width was partly a function of not knowing the City's right-of-way width, since no deed or easement was apparently recorded for this right-of-way, and that proscriptive use will need to be established or something worked out with the adjacent property owners.
- iii. Considerable public comment focused on the danger that would result from the traffic in that area being focused on a narrow road



with a close turning radius. The PC finds that a 20' width for this access point fails to provide adequate ingress or egress from this subdivision, and that approval will be conditioned on an increase of this road to a width that meets the City Engineer's standards, preferably to match the 26' required by WSDOT. Prior to preparation of road improvement plans, the Project Engineer shall confirm the existing right-of-way and shall confer with adjoining property owners to identify and resolve potential conflicts.

- b. Connectivity to streets adjoining Skaalheim addition. As discussed above, the developer will be required to provide connectivity with the streets to the North of the subdivision. Further, the developer will be required to provide adequate surfacing of the adjoining streets for a reasonable distance as required by the City Engineer and Public Works Director.
- c. Connectivity within the subdivision. As discussed above, the developer will be required to provide connectivity between the North section of the development and the South section, both during and after construction. The road connecting the sections must be up to the standards required of other roads within the development.

12. 16.30.140 Street right-of-way width. This section addresses commercial development and roads along subdivision boundaries, neither of which is applicable to this development.

- 6. The City Council has also considered the Court's Order of Remand and finds that the court's order is appropriate and is based upon substantial evidence as demonstrated by the record.

#### **D. CONCLUSION**

The PC concludes that the applicant sustained the burden of proof that the proposed subdivision does or can comply with the applicable provisions of the Stevenson Municipal Code and Revised Code of Washington, provided it is subject to reasonable conditions of approval warranted to assure compliance in fact with those provisions. The City Council also finds that it is bound by the Court's Order of Remand and hereby adopts the required changes to this Approval.



### E. DECISION

In recognition of the findings and conclusions contained herein, and incorporating the reports of affected agencies and exhibits received in this matter, the Commission and the City Council hereby approves the application of John Feliz to subdivide his parcel between SR-14 and the Skaalheim addition into 83 lots, subject to the following conditions:

1. Compliance with City regulations, plans and standards: The design and construction of water and sewer systems, streets, street lights, and storm drainage systems, and site grading and erosion control plans, shall be in accordance with City regulations and Engineering Standards, except as specifically approved otherwise. Complete construction plans, including detailed storm water calculations and downstream analysis, shall be finalized and submitted for review and approval prior to proceeding with construction on the site. Unless otherwise specified herein, at the time of construction and at all times thereafter, the applicant shall comply with all approval requirements established in applicable plans, policies, regulations and standards adopted at the time of this application, including but not limited to, the *Stevenson Municipal Code (SMC)*, the *Stevenson engineering and road standards*, *current water and sanitary sewer plans*, and the *Storm water Management Manual for the Puget Sound Basin (Puget Sound Manual)*.

#### Zoning and Lots.

2. The applicant shall provide two (2) off-street parking spaces per lot. One of the parking spaces shall be located within a garage containing at least 200 square feet. There shall be a minimum of 20 feet between the front lot line and front door of a garage for all lots.
3. **Prior to final plat approval**, the applicant shall provide a site plan and detailed construction and cost estimates for all development activities associated with the on-site storm water facilities. The agreement shall require payment of a maintenance fund of sufficient size to guarantee maintenance by the City of the storm water facilities. The City may elect to accept dedication of this storm water facilities, subject to a Level 1 Environmental Hazard Assessment or greater, if the area to be dedicated is shown to be free of contaminants, trash and nuisance or poisonous plants, and if the City Council determines that the City has the staffing and funding resources necessary to maintain said dedication.
4. **Prior to the start of construction**, the final grading plan must be reviewed and approved, and earthwork construction, including trenching, shall be observed and tested with documentation provided to the city as construction proceeds, by a licensed geotechnical engineer, and the applicant shall apply for and receive building permits from the city for all

proposed site grading and construction. The site grading shall be done during the dry weather season and completed early enough in the year to allow sufficient time for seeding and planting to become established before the onset of wet weather.

5. **Prior to soil disturbing activities** the applicant shall provide the city with a landscaping plan showing all trees to be retained including all large conifers identified by the Washington Department of Fish and Wildlife ("WDFW") and to meet all criteria set forth in the Oregon White Oak Habitat Plan as approved by the City Planner Director.
6. The applicant shall obtain a permit pursuant to PC review for any entry monument on the site.
7. Prior to final plat approval, the applicant shall specify which four lots are reserved for multi-family construction and a note shall be added to the face of the plat to limit multi-family construction to the designate lots.
8. The applicant shall sell or build on not less than 80% of lots in each phase before commencing soil disturbing activities on the next phase, except that the applicant shall have the right to install the necessary and required infrastructure (i.e. underground utilities), not including roads, provided such installation will be done in a manner that minimizes the ground disturbing activities.
9. Prior to the initiation of any construction or final plat approval the applicant shall demonstrate to the city's satisfaction that:
  - i. The applicant shall establish a homeowner's association (HOA) and the Articles of Incorporation, By-laws and CC&R's of the HOA shall reflect that the city's operation and maintenance costs for the stormwater facilities shall be borne by the HOA.
  - ii. The HOA shall be empowered to assess its member's fees to be reserved and used to pay the city for the operation and maintenance of the facilities.
  - iii. The city shall have the right of third party enforcement to ensure that the HOA remains intact and collects the fees and the city shall have the right to recapture any fees and costs associated with enforcement actions.
  - iv. The means of enforcement shall be proposed and approved prior to final plat approval by the City Attorney.
10. The City shall not be responsible for sub drains that may be installed and such responsibility shall be charged to individual lot owners or a homeowners association.

11. Because the highway predates this development, WSDOT will not be responsible for any traffic highway noise mitigation measures. A note will appear on the face of the plat to this effect.

Critical Areas

12. **Prior to final plat approval or initiation of any soil disturbance**, the applicant shall address Oregon White Oak habitat and riparian buffer requirements as follows:

- a. The applicant shall:
  - i. Record conservation easements prohibiting building construction and removal of native or mitigation vegetation within the wetland and riparian buffer areas; and
  - ii. Amend the preliminary plat to show that all lots are platted outside of the required riparian and wetland buffers as proposed in the applicant's Oregon White Oak Habitat Plan and all subsequent mitigation measures based on the spring breeding bird survey.
  - iii. Provide a note on the final plat denoting the Oregon White Oak Habitat Plan and Conservation Easement and their recording numbers with the Skamania County Auditor.
  - iv. The applicant shall include the Oregon White Oak Habitat Management Plan in Chinidere's CC&Rs
- b. In addition, the applicant shall provide the Public Works Director with detailed plans and specifications related to work performed in or near critical areas buffers, when applicable: a vegetation removal and mitigation plan where protected native plants are to be removed; a buffer mitigation and enhancement plan, including a grading and re-vegetation plan; an erosion control plan; and a tree canopy plan and mitigation plan for tree retention and removal within the subdivision including critical areas and buffers. Each report and plan shall consider the cumulative environmental impacts of each phase of development. The requirement in this section that no ground disturbing activity shall occur "near" critical area shall not apply if the applicant submits, and the City approves, a map that delineates the site's critical area and the applicant has flagged these areas on the ground.
- c. Prior to undertaking any land disturbing activities on the site the applicant shall identify and stake the critical area boundaries in the field prior to construction consistent with SMC 18.12.070.

- d. Prior to final plat approval the applicant shall install physical demarcations along the upland boundary of the critical area buffers. The applicant shall modify the text of the signs as necessary to require protection of the riparian area and stream buffers. The applicant shall revise the CC&Rs to require that the homeowners association and/or lot owners permanently maintain the required signs and demarcation.
  - e. The applicant shall show the boundaries of the critical areas on the face of the final plat.
13. If cultural or archeological resources are discovered on the site during construction activity, including burial sites, the applicant is to stop work immediately and notify the Office of Archaeology and Historic Preservation in Olympia and the city of Stevenson Public Works Department are to be notified immediately. Failure to comply with these requirements may constitute a Class C felony, subject to imprisonment or fines. The applicant shall place a note to that effect on the face of the final plat.
  14. **Prior to final plat approval** all easements for the private pathway system shall be denoted on the plat. A note shall be added to provide for the right of public access, as intended by the applicant, and shall construct a pedestrian path as shown on the applicant's Pedestrian Circulation Map to provide pedestrian connections through and within the subdivision.
  15. No development, including adding landscaping, shall be permitted in any delineated critical areas or within 50 feet of the middle point of any of the streams identified on the applicant's preliminary plat map. Nothing contained herein shall prevent Chinidere from constructing or maintaining a non-impervious trail within the designated critical areas or within the 50-foot set-back area or any other roads, utilities or sidewalks as depicted on the Preliminary Plat Map. Moreover, nothing contained herein shall prevent Chinidere or any subsequent parcel owners to remove or maintain any invasive vegetation (blackberry bushes, scotch broom, and other similar noxious weeds or vegetation) from growing or spreading or to remove hazardous trees or limbs. Nothing herein shall prevent the applicant from planting native plants in accordance with the Oregon White Oak Habitat Management Plan. The applicant shall add this restriction to the Chinidere CC&Rs.

**Engineering**

16. The design and construction of streets, streetlights, street trees and storm drainage systems, and site grading and erosion control plans, shall be in accordance with adopted city standards.

17. Proposed Road "C" shall be extended to Pine Street and Tari Lane, and proposed Road "E" shall be extended to Fir Street and Spruce Street. Water and sewer mains shall be extended with the streets. The proposed Road "C" shall connect with Lutheran Church Road by a road meeting the standards required of other roads within the subdivision. Speed regulating devices may be proposed by the developer for review and approval by the City Engineer and Public Works Director.
18. The applicant shall work with the City Engineer and Public Works Director to design and install streets and sidewalks that reduce impervious surfaces to the extent deemed safe and appropriate, but not less than 28 feet. To accomplish this objective, the applicant needs only to design and install sidewalks on one side of the street as deemed appropriate by the City Engineer and Public Works Director..
19. The street centerline curve radius at Lutheran Church Road shall be in accordance with the City Engineer's recommendations and the maximum street grade for Pine Street shall not exceed 15%, unless approved by the City Engineer and Public Works Director, but in no event shall the grade on Pine Street shall exceed 16.67%.
20. The tract identified as "Park" is not a permitted use within either the R-1 or R-3 zone. This lot must be redesignated as a permitted use such as "green space" that does not further impact traffic, stormwater or other standards that contemplated this use as a park. Applicant may later seek a conditional use of this lot as a park.
21. All open space and green space areas must be assigned Lot numbers **prior to final plat approval.**
22. The applicant shall obtain City approval of a final storm water management plan in compliance with adopted City standards.
  - a. For the southern end of the site the applicant shall provide sufficient detail to demonstrate that the proposed pre-treatment and treatment facilities will comply with the requirements of the Puget Sound Manual.
  - b. As set forth in item 9, above, the applicant shall amend the CC&Rs to require the homeowners association pay the city for actual costs of maintaining the storm water facilities on the site after the initial two-year monitoring and maintenance period, and shall provide on the face of the plat that the owners consent to the later implementation of a Stormwater Improvement District if at any time the City determines the Homeowner's Association has failed or refused to maintain the stormwater facilities.



23. Storm conveyance easements shall be provided in accordance with city standards.
24. **Prior to the initiation of any construction or final plat approval** the applicant shall demonstrate to the city's satisfaction that:
  - a. The applicant shall establish a homeowners association (HOA) and the Articles of Incorporation, By-laws and CC&Rs of the HOA shall reflect that the operation and maintenance costs for the storm water facilities shall be borne by the HOA, and the HOA shall provide a facilities maintenance manual and facilities maintenance contracts for city approval.
  - b. The HOA shall be empowered to assess its member's fees to be reserved and used to pay the city for the operation and maintenance of the facilities.
  - c. The city shall have the right of third party enforcement to ensure that the HOA remains intact and collects the fees and the city shall have the right to recapture any fees and costs associated with enforcement actions.
25. An NPDES permit must be secured from the Department of Ecology and a copy provided to the city prior to construction.
26. The site grading for each phase shall be done during the dry weather season (May 1 and October 31) and completed early enough in the year to allow sufficient time for seeding and planting for erosion control to become established before the onset of wet weather, prior to October 31. Grading and construction outside of the critical areas shall comply with the NPDES permit issued by the Department of Ecology.
27. The recommendations of the Geotechnical report prepared by GeoPacific Engineering, Inc. shall be incorporated herein and considered as conditions of approval through final design of the subdivision.
28. The applicant shall provide the city with final plan documents prior the city's approval of the final plat for any phase of development.
29. Pursuant to RCW 58.17.140, the applicant shall submit the final plans for City approval within five (5) years of the date of the preliminary plat approval as amended herein. Upon the applicant's request, the City may allow the applicant extensions of time that may or may not contain additional or altered conditions and requirements. The applicant may also, as provided in RCW 58.17.140, post a bond in an amount and with surety



and conditions satisfactory to the City that will secure the completion of the actual construction of any of the required improvements.

#### Streets

30. The intersection of Lutheran Church Road and 2<sup>nd</sup> St./SR14 shall be improved in accordance with WSDOT requirements.
31. The applicant shall make a reasonable effort to obtain additional right-of-way to allow reconstruction of the existing sharp curve in Lutheran Church Road to provide a minimum centerline curve radius of 100 ft. If reasonable efforts are unsuccessful then the alignment of Lutheran Church Road shall be changed to increase the radius of this curve to 100 ft. minimum and extend it to the site in the proximity of the area envisioned for the proposed lot 3.
32. Lutheran Church Road off-site shall be improved to a width of 26 ft. plus an overlay of the existing pavement, a curb and abutting 6 ft. sidewalk along the west and north side, and a guardrail at the Vallet Creek crossing. Street lighting shall be installed and No Parking signs shall be installed along both sides.
33. The road surface of Lutheran Church Road may be reduced in width to 26' within the subdivision from the West property line to the common lot boundaries between Lots 1 and 2.
34. The extension of Lutheran Church Road shall continue to Road C to eliminate the proposed cul-de-sac and to provide vehicular and pedestrian connectivity in accordance with City standards.
35. The maximum street grade of 15% may be exceeded as requested along the existing Lutheran Church Road, Road "D", and Tari Lane and the southward extension of Fir St. The extension of Pine St. shall be evaluated during final design to seek a design solution that will adhere to the maximum allowable grade as closely as possible subject to the City's approval.
36. The applicant shall provide an updated traffic study after redesign of the extension of Lutheran Church Road to Road "C" for review and approval by the City Engineer.
37. All curves shall have a minimum centerline radius of 70 ft, except Lutheran Church Road in the subdivision which shall have a 100 ft centerline radius.

38. The existing pavements of Pine, Tari Lane and Fir Streets shall be extended to the new streets and existing pavements overlaid south of Tari Lane.
39. The intersection of Road A/Fir St. shall be constructed with Phase 1 to provide a turnaround or a temporary turnaround.
40. An emergency access road with an all weather surface 20 ft. wide and maximum grade of 15% shall be extended with Phase 1 to Pine Street at the north edge of the site to provide alternate ingress and egress to the site until such time as fully improved public streets are constructed with subsequent phases.
41. No bollards shall be allowed within public streets.
42. The applicant shall construct and dedicate public sidewalks, streets and public ways consistent with the applicable adopted City standards.
43. The applicant shall provide a minimum 3-inch diameter PVC or steel pipe of equivalent as approved by the Public Works Director, weep hole through the curb at each lot line. This allows for connection of roof drains to the street and maintains the integrity of the curb, post construction. This detail or requirement must be shown on the construction drawings.
44. The applicant shall provide a maintenance warranty or assurance in a form acceptable to the City Engineer for a period of two years in the amount of 10% of the cost of construction as certified by a professional engineer following final acceptance by the city for all other public or city-owned improvements including streets, street lighting, landscaping, water and sanitary sewer systems and stormwater collection and treatment facilities.
45. The applicant shall pay a reasonable sum as its proportionate share towards the cost of off-site improvements to the intersection of Pine and Shepard Streets, as determined by the City Engineer and Public Works Director.
46. The applicant shall provide the city with verification that sight distance at the intersection of Pine and Shepard Streets, is adequate and safe for the increase traffic created by the subdivision, and shall contribute a reasonable sum toward the improvement of that intersection representing the developer's proportional share of the improvement.
47. The final plat shall contain street names and addresses as approved and provided by the city.

48. Title 16 outlines fees, subdivision provisions, monumentation, and survey standards. Monumentation shall be provided in accord with the Survey Requirements and Standards of SMC Title 16, Chapter 16.34 and Chapter 58.17 RCW; Plats, Subdivisions and Dedications.
49. As constructed drawings will be provided in '.dwg' electronic format as well as Mylar and paper.

#### **Storm water Management**

50. The storm water drainage system shall be in accordance with the City's Engineering Standards and Puget Sound Manual. The downstream conveyance system shall be evaluated with particular attention to state highway and railroad facilities to verify adequacy and any upgrades needed shall be constructed. The stormwater design analysis shall be provided to WSDOT for review and comment. The downstream conveyance system is considered to extend from the site to the Columbia River. On-site detention may be reduced or eliminated depending upon the results of the conveyance analysis. The applicant shall install a stormwater bio-filtration system and a storm water detention facility, which shall be designed by certified engineer to meet or exceed the standards set by the Department of Ecology's applicable Stormwater Management Plan for the Puget Sound Basin. Prior to construction, the storm water detention facility shall be approved by a geotechnical review.
51. The applicant shall produce and provide the city with a copy of the operation and maintenance manual for any drainage facilities **prior to final platting or issuance of any building permits.**
52. Catch basins shall be installed according to city approved standards.
53. All lots will drain to the street. Separate storm water laterals shall be provided at each lot as practicable. Roof drains shall be connected to the weep holes at the curb. Suitable alternatives for lot or roof must be identified and approved prior to construction.
54. Storm water facilities shall be located in separate tracts or within public road rights of way.

#### **Erosion Control**

55. All erosion control ("EC") measures shall be designed, approved, installed and maintained consistent with city standards. All EC Measures shall be in place prior to removal of vegetation or any construction activity and maintained during all phases of construction.
56. Construction plans shall identify staging areas for all equipment, contractors, deliveries, and supplies prior to construction plan approval.

#### **Utilities**

57. In addition to the 12-inch main extension through the site for phase 1 the 10-inch main north through the site shall also be constructed with Phase 1.
58. The Zone 3 pump station improvements identified in the 2003 Water System Plan Amendment must be completed before issuance of any building permits in Phase 3. The applicant must bear an equitable proportionate share
59. If the on-site sewer re-routing does not reduce I/I sufficiently the Kanaka Creek sewage pump station and force main shall be upgraded as necessary.

#### **Fire Safety**

60. Fire suppression and hydrant systems shall meet approved city standards and Fire Chief recommendations.

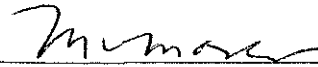
#### **Improvement Agreement**

61. Consistent with its agreement with the city of Stevenson, the applicant shall sign the form "Agreement to Pay Professional Review Expenses Related to Land Use Application." The cost of review by outside professionals beyond the normal and regular costs of application review includes, but is not limited to, out side professional assistance for engineering and land use planning services, traffic engineering, legal support, inspection, testing and sign installation.

#### **Planting Restriction for Lots**

62. The applicant shall include in the CC&Rs a requirement that 'Each lot owner shall use 'best management practices' when cultivating gardens and lawns. Each property owner shall plant plants that are native to the region, and limit the portion of each lot that may be covered with lawn to no more than 15% of the parcel. However, if multiple lots are combined for use as a single residential parcel, the impact of additional lawn would be mitigated by the reduction in density and additional structures. Therefore, when lots are combined, the percentage of gross lot area covered by law may be increased up to 25% of the gross area of two combined lots and up to 40% of the gross area if three or more lots are combined.
63. The City Council further states that to the extent the revisions are inconsistent with the original conditions, the revised conditions shall control as per the court order.

DATED this 21<sup>st</sup> day of September, 2006.



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Monica Masco, Mayor Pro Tem  
City of Stevenson

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**EXHIBIT "B"**

**Legal Description of Entire Chinidere Mountain Estates Subdivision**  
**(also known as Lots 1 and 2 of Feliz Short Plat)**

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## EXHIBIT 'A'

A tract of land in the Southwest Quarter of Section 36, Township 3 North, Range 7N East, of the Willamette Meridian, in the County of Skamania, State of Washington, described as follows:

Commencing at a point 31.47 chains East of the Southwest corner of the North Half of the Henry Shepard D.L.C. #43, said corner being 18.75 chains East and 20.97 chains North of the Quarter corner common to Section 1, Township 2 North, Range 7 East and Section 36, Township 3 North, Range 7 East; thence North 15°48'48" West, 267.57 feet to a point on the Northerly line of that parcel granted to Richard T. Reid, et ux, by instrument recorded October 3, 2003 in Book 251 at Page 600, Auditor File No. 150572, and the point of beginning; thence continuing North 15°48'48" West on said line, 441.37 feet to an intersection with the centerline of Vallett Creek (from which an 1/2" iron rod with red plastic cap bears South 15°48'48" East, 79.87 feet); thence following along the centerline of said creek in a Northerly direction, the chord of which is North 10°27'45" East, 329.57 feet to an intersection with the West extension of the South line of the Skaalheim Tracts as shown on the map thereof recorded in Book 'A' at Page 143 of Plate, Auditor File No. 70454 (from which an 1/2" iron rod with 2" aluminum cap bears South 89°04'37" East, 5.0 feet); thence South 89°04'37" East, 950.97 feet along said South line to the Northwest corner of the parcel granted to Betty Daugherty by instrument recorded October 3, 2003 in Book 251 at Page 590, Auditor File No. 150571; thence South 14°41'20" East, 165.53 feet along said parcel to the Southwest corner thereof; thence North 70°41'08" East, 15.00 feet to the Southeast corner thereof and also the Southwest corner of the Second Addition to Hill Crest Acre Tracts as shown on the map thereof recorded in Book 'A' at Page 100 of Plate, Auditor File No. 41219; thence along the Southeasterly line of said Plat, North 70°41'08" East, 254.91 feet to the Southeast corner thereof; thence South 15°59'52" East, 522.97 feet to a point on the centerline of SR 14 (from which an 1" iron pipe bears North 15°59'52" West, 51.65 feet); thence Southwesterly along said road, at all times following the centerline thereof, 1,254.27 feet to centerline station 63+00 (of 1925); thence at right angle from said centerline to an intersection with the centerline of Vallett Creek as it presently exists, North 38°51'37" West, 50 feet; thence Northwesterly along said centerline (the chord of which bears North 23°20'43" West, 189.41 feet) to the North line of an old roadway formerly known and designated as the Carson-Stevensen Road; thence along said North line, North 77°28'00" East, 217.25 feet to an intersection with the centerline of Lutheran Church Road; thence along the centerline of Lutheran Church Road, North 25°36'23" West, 297.49 feet to the Northeast corner of the parcel granted to Shepherd of the Hills Evangelical Lutheran Church by that instrument recorded August 30, 1961 in Book 49 at Page 144 of Deeds and also a point on the Southerly line of the parcel granted to Richard T. Reid, et ux, by that instrument recorded February 26, 1970 in Book 61 at Page 531 of Deeds; thence North 79°49'12" East, 31.10 feet to the Southeast corner thereof; thence North 25°28'48" West, 149.17 feet to the Northeast corner thereof; thence South 77°11'13" West, 61.50 feet to the Southeast corner of that parcel granted to Richard T. Reid, et ux, by said instrument recorded October 3, 2003 in Book 251 at Page 600, Auditor File No. 150572; thence North 25°28'48" West, 21.63 feet to the Northeast corner thereof; thence along the Northerly line thereof South 75°06'11" West, 236.01 feet to the point of beginning, EXCEPTING THEREFROM any portion of SR 14.

**EXHIBIT "C"**

**Legal Description of Phase IV of Subdivision**  
**(Also known as Lot 2 of Feliz Short Plat)**

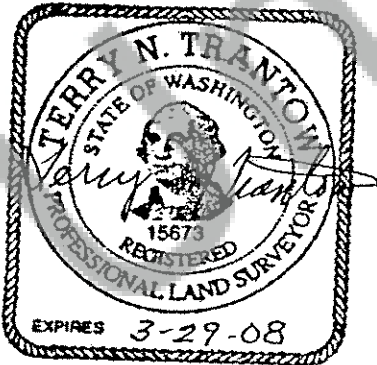
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## Phase 4 Parcel Description of Chinidere

A tract of land situated in the SW¼ of Section 36, Township 3 North, Range 7½ East, W.M., being within the Henry Shepard Donation Land Claim No. 43, in the City of Stevenson, County of Skamania, State of Washington and described more particularly as follows:

Beginning at the Southeast corner of Block 4, Second Addition to Hill Crest Acre Tracts, as shown on the map thereof recorded August 11, 1950 at Page 100 in Book A of Plats, (AF No. 41291), thence along the Southerly line of said block, extended, S 70°41'08" W, 269.91 feet; thence in a generally Southerly direction along the following courses: S 06°46'26" E, 90.33 feet; S 25°51'40" E, 120.12 feet; thence N 63°53'15" E, 7.61 feet; thence continuing Southerly along the following courses: S 26°06'45" E, 50.00 feet; S 28°39'09" E, 38.20 feet; S 18°47'37" E, 169.50 feet; thence S 00°21'44" W, 65.02 feet to a point on the Northerly Right-of-way line of State Route 14; thence along said line N 51°08'23" E, 22.47 feet to the beginning of a curve (centerline station 73+40.10) being concave to the Southeast and having a radius of 1497.50 feet; thence Northeasterly along said curve through a central angle of 02°23'45" for a distance of 62.62 feet (the chord of which bears N 52°20'16" E, 62.61 feet); thence S 36°27'52" E, 15.00 feet along a radial line to a point on a curve (centerline station 74 + 00) having a radius of 1482.50 feet; thence Northeasterly along said curve through a central angle of 06°39'42" a distance of 172.37 feet (the chord of which bears N 56°52'09" E, 172.27 feet) to an intersection with the Southerly extension of the Easterly line of said Block 4; thence N 15°59'52" W, 471.42 feet along said extended line to the Point of Beginning, and there terminating; SUBJECT TO AND TOGETHER WITH a proposed access of 50 feet in width (Brady Lane) leading to and from Fir Street and Spruce Street as they are shown on the hereinabove referenced map of said Block 4; also shown on the proposed plat of Phase 4 of Chinidere Subdivision as of this date; ALSO SUBJECT TO an existing sewer line; ALSO SUBJECT TO an existing electric utility line.

Containing 2.89 acres by calculation



10 October 2007  
Terry N. Trantow, PLS